

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MONTY MARCH and LINDA PRATKA, on
Behalf of Themselves and All Others Similarly
Situated,

Plaintiffs,

v.

REAL ESTATE BOARD OF NEW YORK,
INC.; BROWN HARRIS STEVENS
RESIDENTIAL SALES, LLC; CHRISTIE'S
INTERNATIONAL REAL ESTATE LLC;
COLDWELL BANKER REAL ESTATE LLC;
COMPASS, INC.; CORE GROUP
MARKETING LLC; THE CORCORAN
GROUP, INC; THE CORCORAN GROUP
LLC; DOUGLAS ELLIMAN, INC.;
ELEGAN LLC D/B/A ELEGAN REAL
ESTATE; ENGEL & VÖLKERS NEW YORK
REAL ESTATE LLC; FOX RESIDENTIAL
GROUP, INC; HALSTEAD MANHATTAN,
LLC; TRIBECCA MARKET CENTER LLC
D/B/A KELLER WILLIAMS NYC; LESLIE J.
GARFIELD & CO. INC.; LEVEL GROUP
INC.; TDG-TREGNY LLC D/B/A M.N.S.;
MODERN SPACES, LLC; SUITEY, INC.
D/B/A THE AGENCY; THE MODLIN
GROUP LLC; NEST SEEKERS LLC D/B/A
NEST SEEKERS INTERNATIONAL; R NEW
YORK REAL ESTATE LLC D/B/A R NEW
YORK; RE/MAX LLC; SERHANT LLC;
SLOANE SQUARE LLC; and SOTHEBY'S
INTERNATIONAL REALTY AFFILIATES
LLC,

Defendants.

Case No. 23-cv-09995-JGLC (RWL)

**STIPULATION AND ORDER TO
STAY PROCEEDINGS**

ROBERT FRIEDMAN, individually and on
behalf of similarly situated persons,

Plaintiff,

v.

THE REAL ESTATE BOARD OF NEW
YORK, INC.; DOUGLAS ELLIMAN, INC.;
CHRISTIE'S INTERNATIONAL REAL
ESTATE GROUP LLC; CORCORAN
GROUP LLC; SOTHEBY'S
INTERNATIONAL REALTY AFFILIATES
LLC; BROWN HARRIS STEVENS
RESIDENTIAL SALES, LLC; BROWN
HARRIS STEVENS BROOKLYN, LLC;
SERHANT LLC; COMPASS, INC.; NEST
SEEKERS LLC; SUITEY, INC. a/k/a
TRIPLEMINT, d/b/a THE AGENCY;
ELEGAN LLC; ENGEL & VÖLKERS NEW
YORK REAL ESTATE LLC; R NEW YORK
REAL ESTATE LLC; TERRA HOLDINGS,
LLC; TDG-TREGNY LLC d/b/a/ MNS.; and
LESLIE J. GARFIELD & CO. INC.;

Defendants.

Case No. 23-cv-00405-JGLC (RWL)

WHEREAS, Compass, Inc. ("Compass"); Douglas Elliman Inc. ("Douglas Elliman"); Engel & Völkers New York Real Estate LLC ("Engel & Völkers"), and Christie's International Real Estate LLC ("CIRE") are defendants in *March v. The Real Estate Board of New York, Inc., et al.*, Case No. 23-cv-9995 JGLC (RWL) ("*March*").

WHEREAS, Compass, Douglas Elliman, and Engel & Völkers are also defendants in *Friedman v. The Real Estate Board of New York, Inc., et al.*, Case No. 24-cv-00405-JGLC (RWL) ("*Friedman*").

WHEREAS, on November 4, 2024, in *Gibson, et al. v. The National Association of Realtors, et al.*, Case No. 4:23-cv-00788, the United States District Court for the Western District of Missouri granted final approval of, among others, the four respective nationwide class

settlements to which Compass, Douglas Elliman, Engel & Völkers, and CIRE (through its corporate parent, At World Properties LLC (“@properties”)) are parties (collectively, “Settled Defendants”), overruling the objections to those settlements made by Plaintiffs in the *March* and *Friedman* actions (collectively, “Plaintiffs”) (*Gibson* ECF 530 (“Final Approval Order”).

WHEREAS, in the Final Approval Order, the district court certified the following settlement class regarding the Compass and Douglas Elliman settlements:

All persons who sold a home that was listed on a multiple listing service¹ anywhere in the United States where a commission was paid to any brokerage in connection with the sale of the home in the following date ranges:

- i. October 31, 2019 to date of Class Notice.

Final Approval Order, ¶ 8.

WHEREAS, in the Final Approval Order, the district court certified the following settlement class regarding the @properties and Engel & Völkers settlements:

All persons who sold a home that was listed on a multiple listing service anywhere in the United States where a commission was paid to any brokerage in connection with the sale of the home in the following date ranges:

- i. Homes in Arkansas, Kentucky, and Missouri: October 31, 2018 to date of Class Notice;
- ii. Homes in Alabama, Georgia, Indiana, Maine, Michigan, Minnesota, New Jersey, Pennsylvania, Tennessee, Vermont, Wisconsin, and Wyoming: October 31, 2017 to date of Class Notice;
- iii. For all other homes: October 31, 2019 to date of Class Notice.

Final Approval Order, ¶ 10.

WHEREAS, the Final Approval Order provides, in pertinent part, as follows:

Members of the Settlement Class, unless they excluded themselves from the Settlement Class, are hereby enjoined from filing, commencing, prosecuting, intervening in, or pursuing as a plaintiff

¹ The Final Approval Order specifically notes in Footnote 3 that the term “multiple listing service” includes “non-NAR multiple listing services, including NWMLS, WPMLS, and REBNY /RLS.” Final Approval Order, p. 4 n. 3.

or class member any Released Claims against any of the Released Parties, which include Settling Defendants' franchisees and affiliated brokerages, and agents affiliated with those franchisees or affiliated brokerages. Released Claims include claims that arise from or relate to conduct that was alleged or could have been alleged in the Actions based on any or all of the same factual predicates for the claims alleged in the Actions, including but not limited to commissions negotiated, offered, obtained, or paid to brokerages in connection with the sale of any residential home. For the avoidance of doubt, this injunction extends to claims arising from or relating to transactions where Settlement Class Members either sold or purchased a home on any multiple listing service nationwide, regardless of affiliation or association with NAR or not, and thus includes, *e.g.*, NWMLS, WPMLS, and REBNY/RLS.

Final Approval Order, ¶ 90 (internal citations omitted).

WHEREAS, counsel for the Settled Defendants have met and conferred with counsel for Plaintiffs regarding the impact of the Final Approval Order on the *March* and *Friedman* cases.

WHEREAS, as a result of the fact that the Western District of Missouri overruled Plaintiffs' objections to final approval of the Settled Defendants' settlements, Plaintiffs intend to pursue appeals of the Final Approval Order before the United States Court of Appeals for the Eighth Circuit.

WHEREAS, Plaintiffs filed notices of appeal from the Final Approval order on December 3, 2024. *See Gibson* ECF 558 (*March*), 563 (*Friedman*).

WHEREAS, despite disputing the applicability of the Settled Defendants' settlements and the Final Approval Order to the claims at issue in *March* and *Friedman*, Plaintiffs and Settled Defendants (collectively, "Parties") agree that it is appropriate and will serve the interests of justice to vacate all current case deadlines and administratively stay the *March* and *Friedman* actions as to the Settled Defendants and their franchisees and affiliated brokerages (collectively "Released Parties") until the resolution of Plaintiffs' forthcoming appeals to the Eighth Circuit Court of Appeals from the Final Approval Order.

WHEREAS, the Parties acknowledge that this Agreement exclusively applies to the Released Parties and cannot be used by any other person for any purpose.

WHEREAS, Plaintiffs' entry into this Stipulation does not constitute an admission concerning the applicability of the Final Approval Order to their claims, and Plaintiffs and the Released Parties reserve all rights; and

NOW, THEREFORE, the Parties respectfully request that the Court administratively stay this action as to the Released Parties and vacate all forthcoming case deadlines, future appearances, requests, and/or other case related obligations as to the Released Parties until the resolution of the Plaintiffs' appeals to the Eighth Circuit Court of Appeals from the Final Approval Order.

The Plaintiffs and Released Parties will not be bound by, nor will the Plaintiffs and the Released Parties argue that, any rulings, findings, decisions, or judgments, including any case management order, in *March* or *Friedman* during the stipulated stay apply to the Released Parties, whether based on claim preclusion, issue preclusion, or otherwise.

The Parties further agree that they shall submit a joint status report within ten (10) days after the resolution of the Plaintiffs' appeals to the Eighth Circuit Court of Appeals from the Final Approval Order.

Dated: New York, New York
December 5, 2024

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Dated _____, 2024

SO ORDERED

HON. ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE